

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA, )  
                                )  
                                Plaintiff, )                               8:02CR238  
                                )  
                                v. )                               )  
                                )  
DONALD H. ASAY, TERRI J. )                               MEMORANDUM AND ORDER  
SAMOWITZ, GREGORY W. ENGER, )  
and DONALD A. HEIDEN, )  
                                )  
                                Defendants. )  
                                )  
\_\_\_\_\_

Before the court is the report and recommendation of United States Magistrate Judge Thomas D. Thalken, Filing No. 302. No objection has been filed to the report and recommendation. Pursuant to NECrimR 57.3 and 28 U.S.C. § 636(b)(1)(C), the court has conducted a de novo review of the record and adopts the report and recommendation in its entirety.

THEREFORE, IT IS HEREBY ORDERED that:

1. The report and recommendation, Filing No. 302, is adopted in its entirety.
2. The defendants' motion to dismiss, Filing No. 255, is denied.
3. The defendants' motion to strike, Filing No. 261, is denied.

DATED this 8th day of July, 2005.

BY THE COURT:

**s/ Joseph F. Bataillon**  
United States District Judge